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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/978,420 | 10/15/2001 | Kuo-Yu Chou | 67,200-409 | 5300 |

7590 08/31/2004

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| EXAMINER | |
|---|---|
| RICHARDS, N DREW | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2815 | |

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Advisory Action | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/978,420 | CHOU ET AL. | |
| | Examiner | Art Unit | |
| | N. Drew Richards | 2815 | |

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED 09 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-3,6 and 13*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Tom Thomas

TOM THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that Koike teaches that only either a bond pad or a fuse layer is formed simultaneously with an alignment mark, but not both a bond pad and a fuse layer is formed simultaneously with the alignment mark. Applicant furthers this argument in stating that Koike implicitly teaches that an alignment mark may not be formed when a fuse layer and a bond pad are present and thus Koike teaches away from forming all three (thus teaching away from the combination). First the examiner does not rely on Koike to teach forming all three structures (the bond pad, alignment mark, and the fuse layer) simultaneously but merely relies on Koike to teach forming the fuse layer simultaneously with an alignment mark. The issue at hand is whether Koike, in using the term "or" (column 6 lines 24-27), has explicitly taught that the fuse and the bond pad can not both be formed simultaneously with an alignment mark. The applicant has taken the position that in using the term "or" Koike is explicitly teaching that all three structures can not be formed at the same time. This position is incorrect. Koike merely states that one or the other of the bond pad and fuse layer is formed, not that ONLY one of the bond pad and fuse layer is formed. Koike's teaching of forming the bond pad or the fuse layer does not preclude both the bond pad and fuse layer being formed simultaneously. In fact, taking into account the rejection as a whole, we see that Wang et al. explicitly teaches that the fuse layer can and is formed simultaneously with the bond pad. Koike does not explicitly or implicitly teach away from the combination. Koike merely lacks a teaching of forming both the bond pad and the fuse layer simultaneously with an alignment mark. The fact that a reference lacks teaching a specific limitaiton claimed does not mean that the reference teaches away from a combination with a second reference that does teach the missing limitation.

Applicant further argues that although the alignment mark is formed simultaneously with the fuse layer is Koike this would not necessarily appeal to be a requirement of Koike's invention in that an alignment mark formed at an alternate level would appeal to function for alignment when severing a fuse. This is not relevant as Koike does not teach an alignment mark on an alternate level, Koike teach the alignment mark formed on the same level and simultaneously with the fuse. Whether an alignment mark could be formed elsewhere in the fabrication is irrelevant as the rejection relies upon the specific alignment mark taught by Koike, which is formed simultaneously with the fuse layer as claimed.

Applicant further argues that it might be implicit in Wang that Wang does not form any other layers simultaneoulsy with Wang's bonding pad and metal fuse since Wang teach a passivation layer formed over the substrate exposing just the bonding pad and the metal fuses. This is not persuasive. In Wang's disclosure, there are only two structures that need to be exposed through the passivation layer, these are the bond pad and the metal fuses, and as such Wang only needs to pattern their passivation layer to expose these two structures. Since Wang was not relied upon to teach any other layers (the alignment mark) formed simultaneously, Wang can not be expected to have any disclosure dealing with patterning the passivation layer to expose the alignment mark. One of ordinary skill in the art, when considering the two references as to what they teach as a whole, would recognize that in combining the references to include the alignment mark of Koike, the passivation layer would be patterned to expose the alignment mark to allow for proper use of the alignment mark. Wang's lack of teaching the passivation layer exposing the alignment mark is not an implicit statement that an alignment mark can not be formed in their device.

Applicant further argues that Wang would not need an extrinsic alignment mark as they could possibly use their patterned fuse layers as an alignment mark. This argument is merely speculation by the applicant. That one might be able to use the fuse layers of Wang for a purpose (alignment) not disclosed or suggested by Wang is mere speculation that is not based upon any teaching in the reference. Also, the mere possibility that Wang might not need an extrinsic alignment mark for alignment for fuse blowing does not have any on the fact that the references as a whole teach that an alignment mark is needed for proper alignment and that the alignment mark taught by the references is formed simultaneously with the bond pad and fuse layer as claimed.